



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 10th day of November, 2016

Qatar Airways Q.C.S.C.

Docket OST 2016-0002

Violations of 49 U.S.C. §§ 41301 and 41712

Served November 10, 2016

CONSENT ORDER

This consent order concerns unauthorized foreign air transportation by Qatar Airways Q.C.S.C. (Qatar Airways) in violation of 49 U.S.C. §§ 41301 and 41712. This order directs Qatar Airways to cease and desist from future violations of these provisions, and assesses the company a compromise civil penalty of \$185,000.

Applicable Law

Pursuant to 49 U.S.C. § 41301, a foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit authorizing the foreign air transportation or a valid exemption from that section. The authority required by section 41301 is separate and distinct from the operations specifications and approvals that such an entity must obtain from the Federal Aviation Administration (FAA) for operations to and from the United States. Any operation in violation of the terms, conditions, or limitations of a foreign air carrier permit is a violation of 49 U.S.C. § 41301. A violation of section 41301 constitutes an unfair and deceptive practice and an unfair method of competition prohibited by 49 U.S.C. § 41712.

In addition, under 14 CFR 213.6, any violation by the foreign air carrier of the terms, conditions, or limitations applicable to the exercise of the privileges granted by the permit

shall constitute a failure to comply with the terms, conditions and limitations of such permit.

As part of the terms, conditions, or limitations referenced above, the Department prohibits foreign carriers from carrying the code of a U.S. carrier over an area for which the FAA has issued a flight prohibition.¹ This condition is incorporated into Qatar Airways' statement of authorization in which the Department granted Qatar Airways the authority to display American Airlines' designator code (AA) in conjunction with Qatar Airways' foreign air transportation.² The condition, provided in paragraph (d) of the statement of authorization's Appendix B, states, in pertinent part, the following:

Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirement[] that . . . the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

Carriers subject to the condition referenced above are expected to adhere to all FAA flight prohibitions while carrying a U.S. carrier's code, including while conducting foreign air transportation abroad. The FAA issues flight prohibitions for U.S. civil aviation regarding flight operations in airspace controlled by other countries as U.S. Flight Data Center (FDC) NOTAMs and Special Federal Aviation Regulations (SFARs). The above DOT condition makes such flight prohibitions applicable to foreign carriers when they are carrying a U.S. carrier's code.

Background

The Department approved a blanket statement of authorization permitting Qatar Airways to carry the AA code in conjunction with foreign air transportation, effective February 20, 2013. The authorization was subject to conditions, including the condition referenced above regarding FAA flight prohibitions. The authorization, with conditions, remains in effect indefinitely.

An investigation by the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed that in late 2014 and early 2015, certain Qatar Airways flights carrying the AA code operated in foreign flight information regions while an FAA flight prohibition was in effect. By carrying the AA code on flights in airspace prohibited by the FAA, Qatar Airways operated in violation of the conditions of its statement of authorization. As a result, Qatar Airways violated 49 U.S.C. §§ 41301 and 41712.

¹ See Order 95-2-34 (Feb. 15, 1995) and Notice – Conflict Zone, DOT-OST-1998-20-0690 (Mar. 19, 2015).

² Qatar Airways' request for the statement of authorization is docketed at DOT-OST-2013-0007.

Response

In response, Qatar Airways states that it takes a very active role in monitoring aviation security concerns in all regions in which it operates. It regularly and routinely publishes airspace-restriction briefs and special crew briefs to increase the situational awareness of its flight crews and advise its personnel about evolving aviation security concerns. Qatar Airways notes that it has implemented an Advanced Flight Watch System which allows its Flight Watch Officers to track Qatar Airways flights around the globe, to access real-time weather and airport status information, to communicate with its aircraft about en route weather and safety and security conditions, and to suggest alternative routings and airports if appropriate or needed. Qatar Airways notes that it initiated the development of this system some four years ago in the absence of any regulatory requirements, and is amongst the relatively small number of airlines in the world that already has implemented real-time flight tracking and communications capabilities for its worldwide operations.

In response to DOT's inquiries regarding certain flights, Qatar Airways states that it immediately conducted a thorough investigation and took the necessary remedial action to ensure that all FAA NOTAMs are properly captured and fully integrated into Qatar Airways' flight planning and management processes and systems. Qatar Airways further notes that the errors occurred shortly before its Flight Watch system went fully live in mid-2015.

Decision

The Enforcement Office views seriously Qatar Airways' violations of 49 U.S.C. §§ 41301 and 41712. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, Qatar Airways consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. §§ 41301 and 41712, and to the assessment of \$185,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by Qatar Airways and other carriers.

This order is issued under the authority contained in 14 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;

2. We find that Qatar Airways Q.C.S.C., violated 49 U.S.C. § 41301, as described above, by violating a condition of its statement of authorization, thereby engaging in foreign air transportation without appropriate economic authority;
3. We find that by violating 49 U.S.C. § 41301 as described in ordering paragraph 2, above, Qatar Airways Q.C.S.C. has engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Qatar Airways Q.C.S.C. and its successors and assigns to cease and desist from further violations of 49 U.S.C. §§ 41301 and 41712;
5. We assess Qatar Airways Q.C.S.C. \$185,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$92,500 shall be due and payable within 30 days from the date of this order. The remaining \$92,500 shall become due and payable if, within one year of the service date of this order, Qatar Airways Q.C.S.C. violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately;
6. We order Qatar Airways Q.C.S.C. to pay the penalty as ordered in paragraph 5 through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Qatar Airways Q.C.S.C to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

BLANE A. WORKIE
Assistant General Counsel for
Aviation Enforcement and Proceedings

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